

**MINUTES OF TWO PUBLIC HEARINGS AND THE REGULAR
MEETING OF THE COMMON COUNCIL OF THE CITY OF JASPER,
INDIANA
JUNE 21, 2006**

A public hearing was called to order at 6:40 p.m. on Wednesday, June 21, 2006 in the Council Chambers of City Hall, 610 Main Street, Jasper, Indiana.

Roll Call.

Mayor William J. Schmitt	Present
Councilmembers	
John Schroeder	Present
Bradley Seger	Present
Thomas Schmidt	Present
Ambrose 'Butch' Schitter	Present
Renee Kabrick	Present
Randall Buchta	Present
Raymond Howard	Present
City Attorney Sandra Hemmerlein	Present
Clerk-Treasurer Juanita S. Boehm	Present

Clerk-Treasurer Juanita Boehm announced that in order to have a quorum for the hearing, a majority of the members of the legislative body must be in attendance. All seven members were in attendance; therefore, there was a quorum for the hearing.

Mayor Schmitt then invited all those present to recite the Pledge of Allegiance.

The purpose of the hearing was to receive public comments concerning the petition of Arrol Frank Jacobs, as owner, and Jeff Peters, as petitioner, to rezone the vacant field lying immediately south of 332 S. Truman Road from R-1 (Residential) to I-1 (Light Industrial).

City of Jasper Ordinance Number 1993-17, entitled "Zoning Ordinance and Subdivision Control Ordinance and Flood District and Flood Damage Prevention" and any and all amendments thereto were incorporated by reference into the record of this Public Hearing.

Notice appeared in the Herald on June 10, 2006. Notice was also posted at city hall and faxed to the news media.

Mayor Schmitt then asked for public comment and if there were any remonstrators present.

Ken Brosmer, surveyor, and Steve Wigand, realtor, representing Jeff Peters, were present. Mr. Brosmer presented an aerial photo of the property and explained plans for the property. He said the 2.6 acres of land are on Saint Charles Street and Truman Road and is sided on two sides by light industrial zoning. He said Mr. Peters would like to keep the land along Truman Road for a single family home.

Steve Wigand, realtor, addressed concerns from the neighbors, especially the noise factor. He said there was a natural land buffer the way the land lays, and that Mr. Peters also plans to plant trees to further cushion the residential from the industrial. He said Mr. Peters would build an attractive building and activity would be centered on the south side of building.

Joe Messmer, 382 South Truman Road, showed pictures and asked Mr. Brosmer where his property line was. Mr. Brosmer showed him the property line. Mr. Messmer said he was opposed to the rezoning because trucks would be entering from the south side, which would face his back lot.

Melissa Wigand, 347 South Truman Road, showed a picture of the property and a photo of her three young children. She said changing the property from residential to industrial would be taking away their residential neighborhood. She was concerned about the future impact and asked that the council keep her three young children in mind when making their decision.

Betty Judy, 1319 W. Andrew Lane, said she lives across from the property. She said she returned to her childhood home and was concerned about the rezoning because it was detrimental to their residential neighborhood. She said the property is sided by three residences and there are plenty of other industrial sites already available. Judy was also concerned that Mr. Peters would come in at a future time and request the front residential parcel to be rezoned industrial.

Lynn Judy, 1339 W. Andrew Lane, had several questions about the zoning ordinance, Title 16 in the code book. Councilmember Bradley Seger assured Ms. Judy that all regulations in the ordinance would be enforced. Ms. Judy also stated that most of the area homes are on larger lots and Mr. Peters' lot would not be.

COMMON COUNCIL MEETING CALLED TO ORDER

Presiding Officer Mayor William J. Schmitt called the meeting to order at 7:20 p.m. The meeting was scheduled for 7:00 p.m. but was delayed due to the length of the 6:40 p.m. public hearing.

Roll Call.

Mayor William J. Schmitt	Present
Councilmembers	
John Schroeder	Present
Bradley Seger	Present
Thomas Schmidt	Present
Ambrose 'Butch' Schitter	Present
Renee Kabrick	Present
Randall Buchta	Present
Raymond Howard	Present
City Attorney Sandra Hemmerlein	Present
Clerk-Treasurer Juanita S. Boehm	Present

Clerk-Treasurer Juanita Boehm announced that in order to have a quorum for the meeting, a majority of the members of the legislative body must be in attendance. All seven members were in attendance; therefore, there was a quorum for the meeting.

PUBLIC HEARING #1 RESUMES

Raphael Fleck, 332 S. Truman Road, said his property was rezoned from agriculture to residential in 1983 and he was under the impression that the whole piece from Jasper Woodworking to the corner was changed to residential. He said it should remain residential.

Randy Judy, 1339 W. Andrew Lane quoted from the Title 16 code book, "...that the light industrial district provides space for industries which do not cause conditions that would be objectionable to the neighboring properties". He said all neighbors who live around that property object to the change.

There were no other comments.

On **motion** made by Councilmember Ambrose Schitter, seconded by Councilmember Thomas Schmidt, and unanimously agreed, the public hearing was closed at 7:25 p.m.

PUBLIC HEARING #2

Presiding Officer Mayor William J. Schmitt called the hearing to order at 7:25 p.m. The hearing was scheduled for 6:50 p.m. but was delayed due to the length of the 6:40 p.m. public hearing.

The purpose of the public hearing was to consider the petition of Brady Development LLC, Herbert and Mary Ann Schwenk Trust, and Cedarwood Development to vacate a public utility and drainage easement located near the "Y" on the south side of US 231.

Notice appeared in the Herald on June 7 with a corrected publication on June 9, 2006. Notice was also posted at city hall and faxed to the news media.

Mayor Schmitt then asked for public comment and if there were any remonstrators present.

Kristen Taylor, with Smith, Neubecker & Associates and representing Cedarwood Development and Margaret Hewitt, representative of Cedarwood Development, were present. Ms. Taylor explained that Cedarwood Development plans a CVS store on property between Highway 56/231 and 5th Street. She said the property is in two parts, one part is owned by Brady Development and the other by Schwenk Trust. She said the adjacent Family Video store has an existing storm water outlet that outlets into a ditch and then goes across to a large ditch. She requested that the drainage and utility easement that lies on the Schwenk side of property line be vacated. She showed the site plan and explained that the store would be over the easement. Ms. Taylor further explained that as part of its project, the developer would be putting in some new inlets. She also reported that they had attended the Utility Service Board meeting.

Mayor Schmitt asked if the developers would grant the city a new drainage easement to replace the one that would be vacated. Ms. Taylor responded she is working with the City Engineer and the Planning Director and believes the developers are to offer an easement to the city to replace the one that was there. Mayor Schmitt asked if a retaining wall would be built and Ms. Taylor responded that the developers would tie into the existing wall and continue a new wall. Councilmember Thomas Schmidt asked the location of the entrances. Ms. Taylor said two would be on US231 and one on 5th Street. Councilmember Randall Buchta asked if the ditch would be filled in. Ms. Taylor affirmed that the ditch would be covered and the culvert under 231 would be extended. Mayor Schmitt reported that there were no utilities in the easement and advised Ms. Taylor that she should come before Board of Public Works and Safety concerning the big ditch.

On **motion** made by Councilmember Ambrose Schitter, seconded by Councilmember Bradley Seger, and unanimously agreed, the public hearing was closed at 7:35 p.m.

COUNCIL MEETING RESUMES

Approval of the Minutes

The following minutes were distributed to and examined by the Council:

1. May 17, 2006 regular monthly common council meeting.
2. May 17, 2006 6:40 p.m. public hearing concerning the annexation of 36 acres located at the northeast corner of US 231 and State Road 162. (Seminole Stone).
3. May 17, 2006 6:50 p.m. public hearing concerning the annexation of 96 acres located near the northeast corner of Meridian Road and State Road 162.

A **motion** was made by Councilmember Ambrose Schitter and seconded by Councilmember Renee Kabrick to approve the minutes as presented. Motion carried 7-0.

State Championship. Mayor Schmitt congratulated the Jasper High School Baseball team and Assistant Coach Raymond Howard on winning the State Championship. He said they did a fine job.

Utility Service Board. Utility Service Board member Jeff Theising presented a report of the regular monthly meeting held on June 19, 2006. Copies of the minutes are supplied to each council member.

Rezoning Proposal/Ordinance. Mayor Schmitt sought consideration of Arrol Frank Jacobs and Jeff Peters' proposal to rezone the vacant field lying immediately south of 332 S. Truman Road from R-1 (Residential) to I-1 (Light industrial).

Thereafter, a **motion** was made by Councilmember Ambrose Schitter and seconded by Councilmember John Schroeder to reject the proposal to rezone the vacant field lying immediately south of 332 S. Truman Road from R-1

(Residential) to I-1 (Light industrial) and reject the rezoning ordinance for such property. Motion carried 7-0.

Ordinance No. 2006-21 AN ORDINANCE VACATING A PUBLIC UTILITY AND DRAINAGE EASEMENT

Upon motion by Councilmember Bradley Seger, seconded by Councilmember Raymond Howard and unanimously approved, it was moved to read the ordinance for one reading only. Thereafter, on motion made by Councilmember Thomas Schmidt, seconded by Councilmember Randall Buchta and unanimously approved, it was moved to have the ordinance read by title only. The ordinance was so read. Thereafter, upon motion made by Councilmember Renee Kabrick seconded by Councilmember Ambrose Schitter, it was moved to pass and adopt Ordinance No. 2006-21. The measure passed 7-0.

During discussion, Mayor Schmitt stated this matter was discussed in the public hearing that was held earlier in the evening.

Resolution No. 2006-5 A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF JASPER, INDIANA, ADOPTING A WRITTEN FISCAL PLAN AND ESTABLISHING A POLICY FOR THE PROVISION OF SERVICES TO AN ANNEXED AREA (Windsong)

Resolution No. 2006-5 adopts a fiscal plan for 170 acres for an annexation area known as Windsong

Upon motion by Councilmember Renee Kabrick, seconded by Councilmember Ambrose Schitter, and unanimously approved, it was moved to read the resolution for one reading only. Thereafter, on motion made by Councilmember Renee Kabrick, seconded by Councilmember Thomas Schmidt, and unanimously approved, it was moved to have the resolution read by title only. The resolution was so read. Thereafter, upon motion made by Councilmember Raymond Howard, seconded by Councilmember Randall Buchta, and unanimously approved, it was moved to pass and adopt Resolution No. 2006-5. During discussion, Financial Coordinator Sharon Sander presented an aerial map and explained the fiscal plan.

Ordinance No. 2006-18 AN ORDINANCE PROHIBITING SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT IN THE CORPORATE LIMITS OF THE CITY OF JASPER, INDIANA.

Ordinance No. 2006-18 prohibits smoking in certain places and places of employment.

The ordinance was passed on first reading with amendments on May 17, 2006. Upon motion by Councilmember Renee Kabrick, seconded by Councilmember Raymond Howard, and unanimously approved, the ordinance was ordered read on second reading by title only. The ordinance was so read. Thereafter, a motion was made by Councilmember Renee Kabrick and seconded by Councilmember Raymond Howard to approve the ordinance on second reading.

Under discussion, Councilmember Ambrose Schitter proposed the following amendment to the ordinance by moving to amend the ordinance under **Section 5.05.010 Definitions (k)** by deleting *A Private Club is a 'Public Place' when being used for a function to which nonmembers are invited* and replacing with *A Private Club is a 'Public Place' when being used for a function to which nonmembers are invited, unless if by law or government regulation, only persons over the age of eighteen (18) may be admitted to said function. If the Private Club becomes a 'Public Place' under this Ordinance, it is only those portions or rooms of the Private Club that are open to nonmembers that become a 'Public Place'*. Councilmember Bradley Seger seconded the motion and the motion to the amendment unanimously passed.

Mayor Schmitt then called for the vote. Thereafter amended Ordinance No. 2006-18 was rejected 4-3 on the second reading with Councilmembers John Schroeder, Thomas Schmidt, Ambrose Schitter and Randall Buchta voting against while Councilmembers Bradley Seger, Renee Kabrick and Raymond Howard voted for the ordinance.

Ordinance No. 2006-4 AN ORDINANCE ANNEXING CERTAIN ADJACENT AND CONTIGUOUS TERRITORY INTO THE CORPORATE LIMITS OF THE CITY OF JASPER, INDIANA (State Road 162/Meridian Road)

Ordinance No. 2006-4 annexes 96 acres located near the northeast corner of Meridian Road and State Road 162.

The ordinance was introduced and a fiscal plan was adopted on February 22, 2006. A public hearing was held on May 17, 2006.

Upon motion by Councilmember Ambrose Schitter, seconded by Councilmember Raymond Howard, and unanimously approved, the ordinance was ordered read on second reading by title only. The ordinance was so read. Thereafter, upon motion made by Councilmember Thomas Schmidt, seconded by Councilmember Raymond Howard, the ordinance was unanimously approved on the second reading.

Thereafter upon motion by Councilmember Raymond Howard, seconded by Councilmember Bradley Seger, and unanimously carried, it was moved to have the ordinance read on third and final reading by title only. The ordinance was so read. Thereafter, on motion made by Councilmember Ambrose Schitter, seconded by Councilmember Thomas Schmidt, Ordinance No. 2006-4 was unanimously approved on the third and final reading.

Councilmember Renee Kabrick left at 8:10 p.m. Mayor Schmitt thanked Councilmember Kabrick for her years of service.

Ordinance No. 2006-15 AN ORDINANCE ANNEXING CERTAIN ADJACENT AND CONTIGUOUS TERRITORY INTO THE CORPORATE LIMITS OF THE CITY OF JASPER, INDIANA (Seminole Stone)

Ordinance No. 2006-15 annexes 36 acres located at the northeast corner of US 231 and State Road 162.

The ordinance introduced on April 19, 2006 and a public hearing was held and a fiscal plan adopted on May 17, 2006.

Upon motion by Councilmember Randall Buchta, seconded by Councilmember Ambrose Schitter, and approved 6-0, the ordinance was ordered read on second reading by title only. The ordinance was so read. Thereafter, upon motion made by Councilmember Ambrose Schitter, seconded by Councilmember Thomas Schmidt, the ordinance was approved 6-0 on the second reading.

Thereafter upon motion by Councilmember Ambrose Schitter, seconded by Councilmember Randall Buchta, and approved 6-0, it was moved to have the ordinance read on third and final reading by title only. The ordinance was so read. Thereafter, on motion made by Councilmember Raymond Howard, seconded by Councilmember Ambrose Schitter, Ordinance No. 2006-15 was approved 6-0 on the third and final reading.

Ordinance No. 2006-19 AN ORDINANCE AUTHORIZING THE COLLECTION OF AN APPLICATION FEE FOR A HANDGUN LICENSE

Ordinance No. 2006-19 establishes new handgun license application fees due to an Indiana law change.

Upon motion by Councilmember Bradley Seger, seconded by Councilmember Ambrose Schitter and approved 6-0, it was moved to read the ordinance for one reading only. Thereafter, on motion made by Councilmember Ambrose Schitter, seconded by Councilmember Thomas Schmidt and approved 6-0, it was moved to have the ordinance read by title only. The ordinance was so read. Thereafter, upon motion made by Councilmember Raymond Howard, seconded by Councilmember Thomas Schmidt, it was moved to pass and adopt Ordinance No. 2006-19. The measure passed 6-0.

Ordinance No. 2006-20 AN ORDINANCE AMENDING ORDINANCE NO. 1997-16 ENTITLED "AN ORDINANCE PROVIDING FOR THE ABATEMENT OF WEEDS AND RANK VEGETATION WHICH CONSTITUTE A NUISANCE IN THE CITY OF JASPER, INDIANA"

Ordinance No. 2006-20 adds Code Enforcement Officer as an enforcer of the weed abatement ordinance.

Upon motion by Councilmember Bradley Seger, seconded by Councilmember Ambrose Schitter and approved 6-0, it was moved to read the ordinance for one reading only. Thereafter, on motion made by Councilmember Thomas Schmidt, seconded by Councilmember John Schroeder and approved 6-0, it was moved to have the ordinance read by title only. The ordinance was so read. Thereafter, upon motion made by Councilmember Bradley Seger, seconded by Councilmember Ambrose Schitter, it was moved to pass and adopt Ordinance No. 2006-20. The measure passed 6-0.

During discussion, City Attorney Hemmerlein reported that the recommendation came from the Board of Public Works and Safety.

Ordinance No. 2006-22 AN ORDINANCE ANNEXING CERTAIN ADJACENT AND CONTIGUOUS TERRITORY INTO THE CORPORATE LIMITS OF THE CITY OF JASPER, INDIANA. (Windsong)

Ordinance No. 2006-22 annexes 170 acres- Windsong.

The ordinance was introduced upon motion by Councilmember Ambrose Schitter, seconded by Councilmember Thomas Schmidt, and approved 6-0, to read the ordinance by title only on first reading. The ordinance was so read. Thereafter, on motion made by Councilmember John Schroeder and seconded by Councilmember Bradley Seger, Ordinance No. 2006-22 was approved on first reading. During discussion, City Attorney Sandra Hemmerlein stated that a public hearing would be held on August 23, 2006.

Ordinance No. 2006-23 AN ORDINANCE AMENDING ORDINANCE NO. 2001-50 ENTITLED “AN ORDINANCE ESTABLISHING A RAINY DAY FUND PURSUANT TO INDIANA CODE 36-1-8-5.1”

Ordinance No. 2006-23 amends Rainy Day Fund ordinances to allow transfers to the Fund at any time during the fiscal year instead of by March 1.

Upon motion by Councilmember Ambrose Schitter, seconded by Councilmember Randall Buchta and approved 6-0, it was moved to read the ordinance for one reading only. Thereafter, on motion made by Councilmember Ambrose Schitter, seconded by Councilmember Thomas Schmidt and approved 6-0, it was moved to have the ordinance read by title only. The ordinance was so read. Thereafter, upon motion made by Councilmember Raymond Howard, seconded by Councilmember Bradley Seger, it was moved to pass and adopt Ordinance No. 2006-23. The measure passed 6-0.

Ordinance No. 2006-24 AN ORDINANCE AMENDING ORDINANCE NO. 2005-30 ENTITLED “AN ORDINANCE AFFIXING SALARIES AND WAGES FOR THE UTILITY EMPLOYEES OF THE CITY OF JASPER, INDIANA FOR THE YEAR 2006”

Ordinance No. 2006-24 amends the utility salary ordinance to change the pay range for a position and remove two positions that are now vacant.

Upon motion by Councilmember Ambrose Schitter, seconded by Councilmember Bradley Seger and approved 6-0, it was moved to read the ordinance for one reading only. Thereafter, on motion made by Councilmember Randall Buchta, seconded by Councilmember Raymond Howard and approved 6-0, it was moved to have the ordinance read by title only. The ordinance was so read. Thereafter, upon motion made by Councilmember Bradley Seger, seconded by Councilmember John Schroeder, it was moved to pass and adopt Ordinance No. 2006-24. The measure passed 6-0.

During discussion, Gerald “Bud” Hauersperger, General Manager of Utilities, submitted information to justify reasons for not changing the pay range for a certain position.

Ordinance No. 2006-25 AN ORDINANCE REPEALING ORDINANCE NO. 2002-30 ENTITLED “AN ORDINANCE PROHIBITING THE DISCHARGE OR FIRING OF CERTAIN FIREWORKS AND OTHER PYROTECHNIC DISPLAY WITHIN THE CITY LIMITS, PROVIDING PENALTIES FOR VIOLATION OF THE SAME, AND REPEALING ORDINANCE NO. 15 AND ANY OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THE PROVISIONS HEREOF”

Ordinance No. 2006-25 repeals the City’s fireworks ordinance so the City follows the State fireworks law.

Upon motion by Councilmember Ambrose Schitter, seconded by Councilmember Thomas Schmidt and approved 6-0, it was moved to read the ordinance for one reading only. Thereafter, on motion made by Councilmember Raymond Howard, seconded by Councilmember Randall Buchta and approved 6-0, it was moved to have the ordinance read by title only. The ordinance was so read. Thereafter, upon motion made by Councilmember Raymond Howard, seconded by Councilmember Thomas Schmidt, it was moved to pass and adopt Ordinance No. 2006-25. The measure passed 6-0.

Old National Bank Property. Mayor Schmitt reported that the City had purchased the Old National Bank property on 6th and Mill Streets. He said as part of the agreement, the bank has six months to remove their ATM machine and other equipment. He said future plans are for regulated public parking.

Web Site. Councilmember Raymond Howard reported that there had been 106,000 hits on the City website in April and 118,000 in May.

Adjournment

There being no further business to come before the board, a **motion** was made by Councilmember Thomas Schmidt and seconded by Councilmember Randall Buchta to adjourn the meeting. The motion carried 6-0 and the meeting adjourned at 8:29 p.m.

**William J. Schmitt, Mayor
Presiding Officer**

ATTEST:

Juanita S. Boehm, Clerk-Treasurer

Cynthia Kluemper, Recording Secretary